

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

**BRADLEY PATTON, *on behalf of*
*himself and others similarly situated,***

Plaintiffs,

v.

MIKE FITZHUGH, et al.,

Defendants.

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**No. 3:23-cv-00637
JUDGE CAMPBELL**

**MOTION TO DISMISS ON BEHALF OF DEFENDANTS JAMES TURNER, BARRY
TIDWELL, AND HOWARD WILSON IN THEIR OFFICIAL CAPACITIES**

Defendants Turner, Tidwell, and Wilson, in their official capacities, move to dismiss Plaintiff Bradley Patton’s claims under Fed. R. Civ. P. 12(b)(1) and (b)(6). Dismissal is warranted because:

1. Sovereign immunity bars Plaintiff’s claim. “Suits against state officials in their official capacit[ies] . . . should be treated as suits against the State.” *Hafer v. Melo*, 502 U.S. 21, 25 (1991). And suits against the State are generally barred by sovereign immunity under Eleventh Amendment. *See Alabama v. Pugh*, 438 U.S. 781, 781 (1978). But, “[u]nder the *Ex parte Young* exception, a federal court can issue prospective injunctive and declaratory relief compelling a state official to comply with federal law.” *S & M Brands, Inc. v. Cooper*, 527 F.3d 500, 507 (6th Cir. 2008). Here, Plaintiff’s claim against Defendants Turner, Tidwell, and Wilson in their official capacities is a suit against the State. And, although Plaintiff seeks declaratory and injunctive relief, it is not prospective.
2. Plaintiff lacks standing to seek an injunction. Standing requires an “injury in fact.” *Lujan*

v. Defs. of Wildlife, 504 U.S. 555, 560 (1992). The injury-in-fact inquiry is “twofold where a plaintiff requests injunctive relief.” *Mosley v. Kohl’s Dep’t Stores, Inc.*, 942 F.3d 752, 756 (6th Cir. 2019). A request for injunctive relief “requires the plaintiff to show both ‘past injury and a real and immediate threat of future injury.’” *Id.* (quoting *Houston v. Marod Supermarkets, Inc.*, 733 F.3d 1323, 1329 (11th Cir. 2013)). Here, Plaintiff was detained pre-trial while subject to the bail-source-hearing policy, but he was released. Thus, while Plaintiff alleges a past injury, there is no real and immediate threat of a future injury. Whether Plaintiff will face a bail-source hearing again is merely speculative, which is insufficient for standing. *Lujan*, 504 U.S. at 560.

3. Plaintiff cannot satisfy the requirements under Fed. R. Civ. P. 23 to certify a class action. He does not sufficiently show numerosity, commonality, typicality, or adequate representation under Rule 23(a). And he does not satisfy Rule 23(b)(2)’s requirements for seeking a class-wide injunction.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of this document has been served through the Court's CM/ECF system on November 3, 2023.

/s/ Eric W. Donica
ERIC W. DONICA
Assistant Attorney General